

LFC Requester:**Connor Jorgensen**

**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**

Correction **Substitute**

Date 01/19/2016

Bill No: SB 85

Sponsor: Sen. Linda Lopez

Agency Code: 305

Short Review Policies for Institutional

Person Writing David Murphy

Title: Racism

Phone: 505-222-9087 **Email** dmurphy@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

SB 85 is an addition to the Human Rights Act that would require each State agency to review its policies and practices to ensure that the State agency does not contribute to institutional racism.

The Bill would require that each agency create and adopt guidelines to improve fairness and extend opportunity in state government and the delivery of state services, specifically in hiring decisions and in providing State services to the public. The Bill would also require that each agency apply the newly created guidelines to the agency's contractors.

The Bill further requires that each agency director review the agency's compliance with the newly created guidelines on a periodic basis, and allows the director to contract with a monitor agency to evaluate and review the agency's compliance.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

SB 85, as proposed, does not provide any operational definitions, nor does the Bill define "institutional racism." The existing Human Rights Act does not define "institutional racism," either, nor does New Mexico case law define "intentional racism."

The Bill requires each agency to independently create and adopt guidelines that accomplishes five (5) different objectives. These objectives vary from how the agency hires employees and delivers its services to applying to objectives to its contract employees.

Rather than create a uniform guideline to apply to every State agency, the Bill requires each agency to review its existing policies and create its own guidelines. This could result in disparate guidelines, especially considering the Bill does not offer any definitions to guide the agency.

The Bill requires the agency to have created guidelines and issued a report to its director by January 1, 2017, but fails to create a timeline for implementation of the guidelines. The Bill does not state what exactly the agency director is to do with the information gathered from the report. Additionally, there is no mechanism by which to enforce compliance with the Bill.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS